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6 Attorneys for Plaintiffs

7  
8 UNITED STATES DISTRICT COURT

9 DISTRICT OF NEVADA

10 TRUSTEES OF THE PLUMBERS AND  
11 PIPEFITTERS UNION LOCAL 525  
12 HEALTH AND WELFARE TRUST AND  
13 PLAN; TRUSTEES OF THE PLUMBERS  
AND PIPEFITTERS UNION LOCAL 525  
14 PENSION PLAN; AND THE TRUSTEES  
OF PLUMBERS AND PIPEFITTERS  
15 LOCAL UNION 525 APPRENTICE AND  
JOURNEYMAN TRAINING TRUST FOR  
16 SOUTHERN NEVADA,

17 Plaintiffs,

18 vs.

19 T.E.N. MECHANICAL CORP., a Nevada  
20 corporation,

21 Defendant.

Case No. 2:10-cv-02258-RLH-PAL

JUDGMENT BY CONFESSION

22 Pursuant to the express Stipulation for Entry of Judgment by Confession ("Stipulation")  
23 between the parties hereto, the terms of which are incorporated herein by reference, it is hereby  
24 ORDERED, ADJUDGED AND DECREED that:

25 1. The Plaintiffs, Trustees of the Plumbers and Pipefitters Union Local 525 Health  
26 and Welfare Trust and Plan; Trustees of the Plumbers and Pipefitters Union Local 525 Pension  
27 Plan; and the Trustees of Plumbers and Pipefitters Local Union 525 Apprentice and Journeyman  
28

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1 Training Trust for Southern Nevada (collectively "Trust Funds"), shall take Judgment by  
2 Confession ("Judgment") against the Defendant, T.E.N. Mechanical Corp., a Nevada corporation  
3 ("TEN") in the sum of Two Hundred Six Thousand Four Hundred Eighty-Four and 81/100  
4 Dollars (\$206,484.81) ("Judgment Amount"), which includes known unpaid contributions for the  
5 months of August 2009 through January 2010.

6 2. TEN shall pay the Trust Funds the Judgment Amount as set forth in Paragraph 3,  
7 below. The Judgment Amount shall bear interest from May 1, 2010 at the rate of fourteen percent  
8 (14%) per annum until paid in full. The Trust Funds have not waived and expressly reserve their  
9 right to collect any additional sums owed by TEN that may have accrued through, or accrue after,  
10 January 2010, if discovered by future audit or as a result of unpaid or untimely reports. The  
11 Judgment Amount shall be paid to the Trust Funds as third party beneficiaries of TEN's collective  
12 bargaining agreement ("Labor Agreement") with the United Association of Journeymen and  
13 Apprentices of Plumbing and Pipefitting Industry, Local No. 525 ("Union"), in which TEN agreed  
14 to abide by the trust agreements establishing the respective Trust Funds and any amendments  
15 thereto.

16 3. The Judgment Amount and other obligations set forth herein shall be paid to the  
17 Trust Funds as follows:

18 A. An initial payment shall be made on or before ~~May~~<sup>June</sup> 1, 2010 in the minimum  
19 amount of Thirty Thousand and 00/100 Dollars (\$30,000.00).

20 B. Four subsequent payments in the minimum amount of Thirty Thousand and  
21 00/100 Dollars (\$30,000.00) shall be made on or before the 1<sup>st</sup> day of each of the following  
22 consecutive four months.

23 C. Any remaining balance, together with such additional accrued principal,  
24 interest, liquidated damages, audit costs, and attorney's fees and costs as may be owed to the  
25 Trust Funds by TEN as of the final payment date, shall be due and payable on or before ~~October~~<sup>November</sup>  
26 1, 2010. The Trust Funds reserve the right to collect any additional amounts owed as set forth in  
27 this Judgment.  
28

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1 D. Upon the Trust Funds' timely receipt and negotiation of all payments and  
2 obligations required by this Judgment (i) this Judgment will have been satisfied and upon receipt  
3 of a request therefore, the Trust Funds shall deliver to TEN a written Release and Satisfaction of  
4 Claims, and (ii) liquidated damages in the sum of Forty-One Thousand Five Hundred Forty-Two  
5 and 74/100 Dollars (\$41,542.74) shall be waived ("Liquidated Damages Waiver"). In the event  
6 of TEN's failure to remit all payments and obligations required by this Judgment in a timely  
7 manner, the Liquidated Damages Waiver shall be deemed revoked, TEN shall be obligated to pay  
8 all such Liquidated Damages to the Trust Funds.

9 E. Should the Trust Funds determine that their statutory collection remedies  
10 related to their claims under this Judgment may be lost or materially compromised without  
11 pursuing formal claims, including lien claims pursuant to NRS 108, general (original) contractor  
12 claims pursuant to NRS 608.150, bond claims, etc., the Trust Funds may take reasonable steps  
13 and employ customary legal procedures to preserve and pursue any such remedies and claims.

14 4. TEN shall have the right at any time to prepay the entire balance owed, or any  
15 portion thereof, without incurring any prepayment penalty.

16 5. Filing of and execution on the Stipulation and this Judgment shall be stayed  
17 through ~~October~~ <sup>November</sup> 1, 2010, provided that payments shall have been made by TEN in accordance  
18 with the terms of this Judgment.

19 6. All payments required by this Judgment, the Labor Agreement or related claims  
20 shall be credited first to ancillary costs and charges, including interest, liquidated damages, audit  
21 costs and attorney's fees and costs, and lastly to principal contributions, without regard to the  
22 Trust Funds' discretion to fund employee benefits in whole or in part with such payments. The  
23 payments shall be made payable to the "Plumbers Joint Trust Funds" and shall be remitted to the  
24 Trust Funds' c/o Andrew S. Brignone, Brownstein Hyatt Farber Schreck, LLP, 100 North City  
25 Parkway, Suite 1600, Las Vegas, Nevada 89106, or at such other location as TEN is notified in  
26 writing.

27 7. TEN shall forthwith execute and submit the following documents to the Trust  
28 Funds' attorney:

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1           A.     the Stipulation;  
2           B.     this Judgment; and  
3           C.     all information and documents showing the name(s) of all of TEN's general  
4 contractors, projects and project dates for the months of August 2009 through January 2010.

5           8.     Should TEN fail to satisfy any of the conditions in this Judgment, written notice of  
6 default ("Notice") shall immediately be delivered to TEN at 209 Avenida Del Mar, San Clemente,  
7 CA 92672-4078. If TEN thereafter fails to make the required payment(s) or otherwise fails to  
8 comply with the conditions of this Judgment within five (5) business days of the date of such  
9 Notice, the Trust Funds shall have the unconditional and immediate right to file the Stipulation  
10 and this Judgment with the U.S. District Court, and may execute upon the same for whatever  
11 amount then remains due and owing, without further notice to TEN or Order from this Court. In  
12 the event of default and failure to cure, the Judgment Amount, reduced by any payments that have  
13 been made by or on behalf of TEN, shall be immediately increased by interest, court costs,  
14 attorney's fees and any additional claims accrued and owed by TEN to the Trust Funds pursuant  
15 to this Judgment. The new Judgment Amount shall accrue Fourteen percent (14%) default  
16 interest on the balance from the default date until paid. In the event the Trust Funds should  
17 discover additional claims pursuant to an audit or TEN should fail to timely submit reports and  
18 payments of contributions to the Trust Funds as provided in the Labor Agreement and Paragraph  
19 9 hereafter, the amount of such claims may be added to this Judgment. The amount of such  
20 additional obligations may be established by affidavit of the Trust Funds' administrator or other  
21 representative.

22           9.     During such periods as TEN may be signatory to a Labor Agreement with the  
23 Union and during the payout term of this Judgment, TEN shall remain current and submit timely  
24 monthly reports and payments of contributions to the Trust Funds. TEN shall remit accurate  
25 reports and contribution payments to the Trust Funds for the months beginning April 1, 2010 (due  
26 on or before May 20, 2010), through the effective period of the Labor Agreement.

27           10.    The 'Trust Funds' Release and Satisfaction of Claims in favor of TEN shall not be  
28 executed nor delivered until all obligations under this Judgment have been fully performed.

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1 11. Nothing in this Judgment shall, or shall be deemed to, in any manner limit, waive  
2 or release the obligations under the Labor Agreement of TEN and any trades or businesses under  
3 common control with TEN.

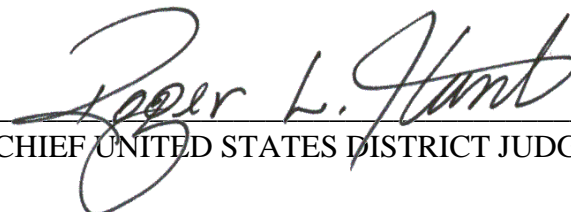
4 12. No waiver of any breach by TEN of this Judgment nor acceptance of a late  
5 payment or waiver of a timely payment by the Trust Funds shall constitute a waiver of any other  
6 breach or timely payment or the right of the Trust Funds to accelerate the entire amount due or the  
7 right of the Trust Funds to record, enter and execute upon the Stipulation and this Judgment.

8 13. The following potential claims are expressly reserved by the Trust Funds: (i) any  
9 Trust Fund claims unrelated to the Judgment Amount, accruing before or after the effective date  
10 of this Judgment, including, without limitation, claims by the Trust Funds for additional  
11 contributions and related damages that may be (or become) due and owing to the Trust Funds  
12 pursuant to the provisions of any collective bargaining agreement to which TEN may be bound  
13 that requires the payment of contributions to the Trust Funds, other than the Labor Agreement  
14 between TEN and the Union; (ii) the obligation of TEN or any trade or business under common  
15 control of TEN (to the extent TEN or any trade or business under common control with TEN has  
16 any obligation) to pay, and the rights of the pension funds to assess and collect, withdrawal  
17 liability pursuant to 29 U.S.C. §1381 et seq. (including use of TEN's contribution history for  
18 purposes of calculating any withdrawal liability); (iii) any additional claims discovered by  
19 compliance audit for any past, present or future audit period; (iv) any claims for untimely paid  
20 contributions arising after January 2010 and (v) any general contractor claims pursuant to NRS  
21 608.150, lien claims pursuant to NRS 108, pay and performance bond claims, licensing bond  
22 claims and any other ERISA or state law claim enforceable by the Trust Funds.

23 14. In the event of the filing of any bankruptcy petition by TEN, any payments made  
24 by TEN pursuant to the terms of this Judgment shall be deemed to have been made for new value  
25 as provided under 11 U.S.C. § 547(c)(1) and in the ordinary course of TEN's business as provided  
26 under 11 U.S.C. § 547(c)(2), so that such payments shall not be claimed by TEN as preference  
27 under 11 U.S.C. § 547 or otherwise.  
28

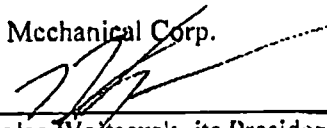
1 15. TEN has consulted an attorney of its choice and fully understands the obligations  
2 and consequences of this Judgment.

3 Dated and Done this 17th day of February, 2011.

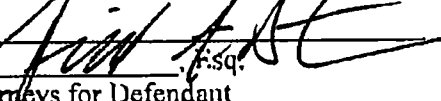
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6   
7 CHIEF UNITED STATES DISTRICT JUDGE

8 Approved as to Form and Content:

9 TEN Mechanical Corp.

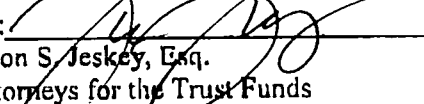
10  
11 By:  Dated: May 30, 2010.  
12 Nicholas Wojtaszek, its President

13 [Law Firm] *Brownstein & Brownstein*

14 By:  Dated: May \_\_\_\_\_, 2010. *June 29, 2010*  
15 Attorneys for Defendant

16 Approved and Submitted by:

17 Brownstein Hyatt Farber Schreck, I.L.P.

18 By:  Dated: *December 29*  
19 Jason S. Jeskey, Esq. ~~May~~ \_\_\_\_\_, 2010.  
20 Attorneys for the Trust Funds

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OATH AND VERIFICATION

STATE OF California )  
COUNTY OF Orange ) : ss.

Nicholas Wojtaszek, being first duly sworn upon oath, now verifies and declares that:

1. Entry of this Judgment by Confession, according to its provisions, is duly authorized; and
2. The money due and owing and the basis for said Judgment by Confession are accurately set forth in the Stipulation for Entry of Judgment by Confession and this Judgment by Confession.

Further you affiant sayeth naught.

Nicholas Wojtaszek

State of California  
County of Orange

Subscribed and Sworn before me, Melissa Farah, Notary Public  
this 28th day of May, 2010.

Melissa Farah  
Notary Public



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